in money to, or to the order of, a specified person or to bearer. It may be made by two or more persons who make themselves liable jointly or jointly and severally. It may contain a pledge of collateral security but it may not contain anything else. Promissory notes are negotiable or transferable in the same manner as bills of exchange. I doubt if the document produced in the lower court which is in Chinese is negotiable or transferable in the way it was written. Further the document mentions that "fearing that words from mouth bear no proof this is specially made as evidence". In my opinion the document is merely an agreement or memorandum. Consequently it comes under article 2 of the First Schedule and the proper stamp duty had been paid. I think the parties to the document realised the importance of having some sort of written evidence. However I do not know whether they had the Statute of Frauds in mind at the time. Appellant tried to deny any knowledge of the transaction but the learned magistrate did not believe her and had given his reasons for doing so. I have no doubt that the learned magistrate was right in his view that the appellant was privy to the agreement or memorandum. I therefore hold that the appellant fails in the second ground. In the light of what I said her third ground that the learned magistrate should have held that the promissory note was too ambiguous to be effective in law cannot succeed. In the result I dismiss the appeal with costs.

Appeal dismissed.

LEE LEE CHOON v. TENG AI CHENG

[A.C.J. (Lee Hun Hoe J.) October 19, 1965]

[Sibu — Civil Appeal No. 7 of 1965]

Landlord and tenant — Demand for rent — Rent lawfully due — Whether notice is defective if amount demanded is wrong.

The question raised in this appeal was whether the notice of demand for rent issued by the plaintiff was defective. The rent of the premises was $60 but the plaintiff demanded payment of $90, of which $30 was for the use of electricity and water. The learned magistrate held the demand was defective and dismissed the plaintiff's claim for possession.

Held: the word "demand" in section 15 of the Control of Rent Ordinance should be construed in its popular sense and not as a formal demand made in accordance with the strict rules of the common law and therefore the learned magistrate was wrong in holding that the notice of demand was defective.

Cases referred to:—

(1) *Leong Man Pan & Anor.* v. *President, Thong Saw Hong* [1952] M.L.J. 222.

(2) *Chew Geok Lin* v. *Pau Ping Kuong* [1965] 1 M.L.J. 25.

(3) *Cherian Varughese* v. *Aminah Radin Osman* [1958] M.L.J. 221.

CIVIL APPEAL.

George Seah Kim Seng for the appellant.

C. T. Wong for the respondent.

Lee Hun Hoe J.: This appeal against the decision of the learned magistrate sitting in the district court, Sibu raises one question only. That is whether the learned magistrate was wrong in law in holding that the notice of demand dated 21st July, 1964 was defective.

The learned magistrate referred to the said notice of demand in these words:—

> "The notice given by the plaintiff on 21st July 1964 is defective in as much as, to quote section 15(1)(a) of the Rent Control Ordinance, the rent *lawfully* due was, at that date, $60 and not $90 as demanded in it."

Both counsel did not dispute that the $90 demanded included $30 for the use of electricity and water. According to the definition of "rent" in the said Ordinance it does not include the use of electricity and water.

The relevant section of the said Ordinance reads:—

> "15. — (1) No order or judgment for the recovery of possession of any premises comprised in a tenancy shall be made or given except in the following cases, namely —
>
> (a) where at the date of the notice determining the tenancy given by the landlord, rent lawfully due was in arrear for twenty-one days or upwards after demand in writing and there was no tender thereof at or before such date."

Reference was made to *Leong Man Pan & Anor.* v. *President, Thong Saw Hong* (1) where the short judgment of Sir Charles Murray-Aynsley C.J. reads:—

> "This appeal raised a short point under the Control of Rent Ordinance, 1947, No. 25 of 1947. It is a question of the construction of section 14(1)(a). The learned district judge held that the word 'demand' had a restricted meaning, namely, that it had to satisfy the exacting requirements of the common law, as they are set out in *Crouch* v. *Patolfe*. The case from Perak of *Tan Yee Moh* v. *Varthamal* was cited in support. I do not think that that case applies. Here the basis of the claim to possession is termination of the tenancy by notice to quit. Apart from section 14 of this Ordinance that would be unanswerable. However, the Legislature has given in certain cases protection to the tenant in that an order for possession can only be given if certain conditions are fulfilled. Here the rent must be in arrear for twenty-one days after demand. I do not think that it is necessary to put a restrictive meaning upon the word 'demand'. A demand in solemn form as required by the common law is in point of fact so obsolete that I do not think that the Legislature intended such a proceeding. The object of the demand is to give the tenant a chance to pay and, of special importance, to let the tenant know where rent can be paid. If the tenant fails to take advantage of this the protection of the Ordinance ceases. For the purpose of this Ordinance rent unpaid after the demand is in arrear."

Certain confusion arose as to the exact amount arrears of rent in *Chew Geok Lin* v. *Pau Ping Kuong.* (2) I stated at page 26 as follows:—

"Mr. Wong for the plaintiff admitted that there is a mathematical error in his calculation of the amount. Mr. Seah for the defendant submitted that because of a wrong calculation of the total amount of rent by plaintiff the demand became unlawful in that it was not 'rent lawfully due' within the beaning of paragraph (a) of subsection (1) of section 15 of the said Ordinance. No authority was quoted to support this proposition. I am aware of no authority on this point. At any rate I do not think such an error will be fatal to plaintiff's claim as a true perspective can be drawn from the facts."

I have no reason to depart from the view I expressed above. The object of the demand was lucidly expounded in *Leong Man Pan's* case. The validity of the notice of demand was fully discussed in *Cherian Varughese* v. *Aminah Radin Osman* [8] which escaped the attention of both counsel as it was not cited to me.

In *Cherian Varughese* v. *Aminah Radin Osman* the appellant contended that for there to be a valid notice of demand in writing within the meaning of section 15(1)(a) of the Singapore Control of Rent Ordinance it was essential that the demand must be for the precise sum then payable and not one cent more or less. In support appellant cited a passage in *Woodfall* on Landlord and Tenant. Wee Chong Jin J., (as he then was) rejected the contention in these words:—

"I am unable to agree with this contention. The passage cited relates to the common law principle that unless there are express words in a lease or agreement dispensing with a formal demand of the rent, or the case falls within section 210 of the Common Law Procedure Act 1852, no entry or ejectment can be maintained for non-payment of rent without a previous formal demand thereof made according to the strict rules of the common law. It must be remembered that the formal demand required by the common law only arises in cases where the lease or tenancy has not been duly determined and before such due determination the landlord seeks to obtain possession by a writ of ejectment based on non-payment of rent. In this case it is not in dispute that the tenancy has been duly determined according to law. The point before me is what is the true meaning of the word "demand" in section 15(1)(a) and in my opinion the very words of section 15(1)(a) which require a 'notice of demand in writing' make it abundantly clear that it was not the intention of the legislature that the word 'demand' is to be construed to mean a formal demand made in accordance with the strict rules of the common law but that the word 'demand' should be construed in its popular sense. I am accordingly of the opinion that tht letter of the 5th October 1956 was sufficient notice of demand in writing as required by section 15(1)(a) of the Ordinance."

The notice of demand does not determine the tenancy but merely provides a tenant with an opportunity to pay. The legislature has given the tenant an additional protection by imposing on the landlord a duty of making a demand in writing before he can determine the tenancy. The learned magistrate appeared to have construed the word "demand" to mean a formal demand in accordance with the strict rules of the common law. He was therefore wrong in holding that the notice of demand dated 21st July 1964 was defective. I am sure had his attention been drawn to *Cherian Varughese's case* and *Leong Man Pan's case* he would have come to a different conclusion.

In the result the appeal must be allowed. I direct a new trial. The costs of this appeal and of the court below as assessed by the learned magistrate will be paid by the respondent.

Appeal allowed.
New trial ordered.

HAMID BIN AWANG v. YEO KIM KUAN

[O.C.J. (Ismail Khan J.) October 22, 1965]
[Malacca — Civil Suit No. 180 of 1964]

Damages — Personal injuries — Spinal cord — Fracture of cervical vertebra — Paralysis.

The plaintiff, suing by his next friend, claimed damages for personal injuries sustained in a collision between himself and a car driven by the defendant as a result of which he suffered a serious injury to his spinal cord involving a fracture of the 6th cervical vertebra. This resulted in a paralysis of the muscles of the forearms and hands, the trunks and the lower limbs. There was a loss of sensation in the back of the hands and the whole of the body from below the 2nd intercostal space. The hands were clawed and useless, the lower limbs were flexed at the knee and hip joint and were in a state of intermittent spasms. As a result of his injury the plaintiff was reduced to such a state of helplessness that he was unable to perform the simplest function independently of aid and attention. At the time of the accident the plaintiff was about 20 years old. He was accepted as a student teacher at the Day Training Centre, Malacca, for teachers and had it not been for the accident would have commenced his course on April 1, 1964. From the evidence the court found that the defendant was solely to blame for the accident. On the question of quantum of damages,

Held: (1) the plaintiff had to be compensated somehow for the loss of earning capacity and the amenities of life during his remaining life expectancy;

(2) taking all relevant matters into consideration, a sum of $110,000 would be an appropriate figure for general damages being a sum of $70,000 for loss of amenities and $40,000 for loss of earnings.

Case referred to:—

(1) *Quek Poh Ser & Anor.* v. *Jhagir Singh* [1962] M.L.J. lxxxviii.

CIVIL SUIT.

H. E. Cashin for the plaintiff.

N. Ramachandran for the defendant.

Cur. Adv. Vult.

Ismail Khan J.: In this case the plaintiff claims damages for personal injuries sustained in a collision between himself and a car driven by the defendant which took place at about 10.30 a.m. on 19th March, 1964, in Bunga Raya Road, Malacca. In his statement of claim he attributes the accident to the negligent driving of the defendant. In his defence the defendant alleges that the accident was caused solely or contributed to by the negligence of the plaintiff.

There were no eye-witnesses of the collision.